Writ Petition No. 528 (M/S) 2003

Ashok Kumar Aggarwal- …… Petitioner

Versus

The District Judge, Haridwar & others- ….. Respondents.

Hon'ble M.M. Ghildiyal, J.

The petitioner has challenged the order dated 24.04.2003 passed by the District Judge, Haridwar rejecting the application for amendment moved by the petitioner under Order-6 Rule-17 C.P.C., Section 34 and 22-d of U.P. Act No. 13 of 1972.

Sri Sharad Sharma has put in appearance for respondent No.2 and has filed counter affidavit.

The application was moved by the petitioner for amendment in written statement to bring certain subsequent facts, which were not in the knowledge of the petitioner at the time of filing of written statement before learned Prescribed Authority. The petitioner sought amendment to the effect that the respondent/landlord has executed an agreement to sale of the said property sometimes on 01.12.2001 and he has not shown possession in any part of the property in dispute. Sri Sharad Sharma, learned Counsel for the respondent has stated that he does not intend to sale the property in dispute. This fact was brought in the knowledge before the First Appellate Court. For the reasons, since the petitioner has not filed the copy of the sale-deed, the First Appellant Court was right in rejecting the application of the petitioner.

Sri Sharma has further submitted that an unregistered agreement for sale could not be read as in evidence U/s 49-C of the Registration Act as well as U/s. 34 of the Stamp Act and, as such, the document is not relevant and the District Judge was right in rejecting the application of the petitioner. It is well settled law that the subsequent events may be brought before the Court, if it is applied.

Both the parties have agreed, if the petition may be disposed of at this stage.

The writ petition is allowed. The First Appellate Court is directed to dispose of the application of the petitioner. While

disposing of the application for amendment, concept of Section 49-C of the Registration Act as well as Sec. 35 of the Stamp Act may be considered.

(M.M. Ghildiyal, J.)

July 2, 2003
NCM: